

11 MAY 2000



UNITED STATES DEPARTMENT OF COMMERCE
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Warren A. Kaplan
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Cambridge, MA 02142

In re Application of
GOTWALS et al :
Application No.: 09/423,018 : DECISION ON
PCT No.: PCT/US98/07587 :
Int. Filing Date: 16 April 1998 : PETITION UNDER
Priority Date: 18 April 1997 :
Attorney's Docket No.: A018 : 37 CFR 1.137(b)
For: Type II TGF- Beta Recepto/Immunoglobulin
Constant Region Fusion Proteins :
:

This is in response to the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR § 1.137(b)" filed on 28 October 1999. Applicant has authorized to charge Deposit Account 02-2327, \$1,210.00 (1.17(m)), for the petition to revive unintentionally abandoned application.

BACKGROUND

On 16 April 1998, this international application was filed, claiming an earliest priority date of 18 April 1997.

On 18 November 1998, a Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 18 October 1999. This international application became abandoned with respect to the United States at midnight on 18 October 1999 for failure to pay the basic national fee.

On 28 October 1999, applicant filed the instant petition, which was accompanied by, *inter alia*, the transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, the U.S. basic national fee, and the petition fee under 37 CFR 1.17(m).

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m), and (3) the statement required by 37 CFR 1.137(b)(3). In this application, no terminal disclaimer is required. Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and (4) under 37 CFR 1.137(b).

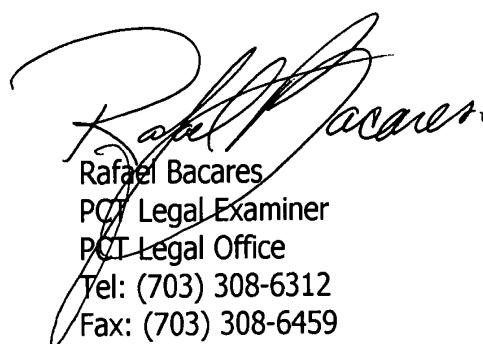
DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.



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